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SUBJECT: CROATIA SHOCKED BY ICTY VERDICT ON "VUKOVAR 3"

REF: ZAGREB 853

Classified By: Kirsten Selinger, POLOFF, Reasons 1.4 B/D

SUMMARY AND COMMENT

1. (U) SUMMARY: The ICTY ruling on 27 September against the so-called "Vukovar Three," former Yugoslav army officers accused of war crimes in Vukovar, caused widespread shock, disbelief, and anger in Croatia. One officer received 20 years imprisonment, but another, who personifies the crime for the Croatian public, received only five years, and the third was acquitted of all crimes. The three officers were charged with allowing the massacre of at least 264 civilians and POWs who sought shelter in the Vukovar hospital during the siege of the town in 1991. In November of that year, prisoners and patients were taken to the Ovcara pig farm, tortured, and killed. The Ovcara massacre became the iconic event of Croatian suffering during attacks from Serbs - and the three accused were the face of the deeds. PM Sanader called the verdicts "shameful" and immediately traveled to Vukovar to participate in a peaceful protest. He told the press that the GOC will send strong protest letters to the UNSC and to the ICTY president. President Mesic called the sentences "utterly unacceptable." All other major politicians condemned the verdict and questioned the ICTY's credibility.

2. (C) COMMENT: The ruling is a blow not only to the victims of this crime, but to local perceptions of the ICTY and the willingness of Croats to prosecute ethnic Croats domestically. The GOC has paid a significant domestic political price for its full cooperation with the ICTY, including assistance in the arrest and hand-over of Croatian General Ante Gotovina in 2005. The Croatian public has always suspected an unfair bias against Croats in The Hague (aggravated by the non-verdict in the Milosevic trial). This week's decision will likely discredit the work here of the Court on future cases. Further, it will undoubtedly diminish the public's willingness to prosecute Croats in domestic war crimes cases, and present political leaders with a greater challenge in encouraging equal prosecution of Croats and Serbs in the courts. END SUMMARY AND COMMENT.

Light Sentence for JNA Officers

3. (U) On September 27, the Trial Chamber of the ICTY sentenced Mile Mrksic to 20 years for aiding and abetting murder, torture, and cruel treatment, Veselin Sljivancanin to five years for aiding and abetting the torture, while Miroslav Radic was found not guilty of all counts. These sentences were for their involvement in the November 1991

killing of 264 civilians and wounded fighters taken from the Vukovar hospital to the Ovcara pig farm, where they were beaten, tortured, and killed. The Ovcara massacre, along with the shelling of Dubrovnik, has become the iconic example of war crimes committed against Croats during the war, and Sljivancanin, who appeared on camera personally blocking international observers (including former Secretary of State Cyrus Vance) and the Red Cross from entering the hospital, was the face of the crime for the Croatian public. Prosecutors had sought life imprisonment for all three officers. The indictment charged Mrksic with ordering commission of the crimes and the withdrawal of JNA forces to permit the massacre by others. It also said the accused had acted together in the murder of prisoners from the hospital. Although no written verdict is yet available, the Court found that there was no direct evidence to establish the three men participated in a "joint criminal enterprise" to massacre the group, although it did find that Mrksic gave an order, which was implemented by Sljivancanin, to take the prisoners from the hospital to the Ovcara farm. Sljivancanin has been in detention for four and a half years, and therefore will be released in the coming months.

Disbelief at Ruling

14. (U) As soon as the verdict was released, the reaction from politicians was swift and unequivocal. President Mesic, a long-time supporter of the Tribunal and its work, said the verdict was "absolutely unacceptable in terms of the duration of the sentences and the explanation of the verdicts. The verdicts are partly a result of the indictment, which failed to cover all relevant elements of the crimes the accused had participated in." Sanader called the verdicts shameful and

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"a defeat of the whole idea of the Hague tribunal." Sanader traveled to Vukovar in the evening to hold vigil with residents, who held a peaceful protest at Ovcara. He announced he would protest the decision to the UNSC and the ICTY President. War veterans associations, families of the missing or killed, and former inmates of Serb-run camps all called the decision shameful and unjust. Another peaceful protest will be held today in Zagreb.

15. (C) Chief State Prosecutor Mladen Bajic told us that the verdict is a catastrophe for his work in Croatia to prosecute war crimes. He explained that it will be extremely difficult to bring to trial cases against Croatian defendants in this environment. His deputy, State Prosecutor Dragan Novosel, noted that it may be increasingly difficult to seek stiff sentences against Croats for lesser crimes, as this ruling effectively lowers the standard for war crimes punishments. He referred specifically to the ongoing trial of an 11-bis ICTY transfer case of Croatian Generals Ademi and Norac (Reftel), charged with war crimes against ethnic Serbs, noting that, while he would need to read the verdict, using the ICTY's apparent logic could mean neither should be convicted. Head of the ICTY Prosecutors Office in Croatia Thomas Osorio too was deeply disappointed, and was concerned that the decision sets a negative precedent for the region, negating the ability of prosecutors to charge JNA officers with a failure to deter paramilitaries from committing crimes in JNA-controlled areas. He confirmed that ICTY Prosecutors plan to appeal the ruling.

16. (U) Speaker of Parliament Vladimir Seks called it unacceptable that the verdicts handed down by Belgrade courts (to individuals charged with the actual murders) were harsher than those by The Hague. (Comment: the Serbian Supreme Court's decision to overturn the December 2005 convictions of 14 paramilitary leaders for conducting the Ovcara massacre has further fueled the frustration of the Croatian public.)

"The Hague's Shame"

¶17. (SBU) Social Democratic Party (SDP) leader Zoran Milanovic called the verdict scandalous, and said the ruling reflects a lack of credibility in the work of the tribunal. Leader of the Croatian Peasant Party (HSS) Josip Friscic said he was outraged, adding that the Tribunal applies double standards when it comes to Croatian generals. One local newspaper called the decision "the death of the ICTY", disappointing those around the region who were looking for reconciliation and assignment of individual responsibility following the war. Those who hoped that the ICTY would lead this process and correctly determine guilt are terribly upset, the editorial said.

Embassy Response

¶18. (SBU) Following his conversation with US Ambassador at Large for War Crimes Clint Williamson, Ambassador Bradtke released the following statement to the press: "I am personally surprised and disappointed with the court's decision. I have not yet seen the details of the decision to try and understand the judges' rationale, but it is hard to imagine how these sentences measure up to the enormity of the crimes that were committed in Ovcar." Ambassador Williamson is traveling to Croatia next week and will also likely speak to the press about the verdict. Post urges the Department to express similar concern.
BRADTKE